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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

NELSON OSEMWENGIE, *et al.*,

Defendants.

2:05-cr-0100-RLH-LRL
2:06-cr-0002-RLH-GWF

UNOPPOSED MOTION FOR EXTENSION OF TIME

(Second Request)

Pursuant to Fed. R. Civ. P. 6(b), LR IA 3-1, and LR 6-1¹, the United States of America (“United States”) respectfully submits this unopposed motion seeking an extension of time until and

¹ Although this is a criminal case, the Federal Rules of Civil Procedure apply to the ancillary forfeiture proceeding because ancillary forfeiture proceedings are considered civil in nature. *See United States v. Alcaraz-Garcia*, 79 F.3d 769, 772 n. 4 (9th Cir. 1996) (holding that “the third party proceeding is *civil* in nature” and, therefore, Fed. R. App. P. 4 determines the timeliness of an appeal from the denial of a third-party petition under 21 U.S.C. § 853(n)); *United States v. Douglas*, 55 F.3d 584, 588 (11th Cir. 1995) (holding that a third-party claim in a proceeding ancillary to criminal forfeiture is to be considered a civil action for purposes of permitting an award of attorney’s fees under the Equal Access to Justice Act); *United States v. BCCI Holdings (Luxembourg) S.A.*, 69 F. Supp. 2d 36, 54-55 (D.D.C. 1999) (because the ancillary proceeding is essentially civil in nature, “the Court adopted and adapted the Federal Rules of Civil Procedure” to impose sanctions under Fed. R. Civ. P. 11, to allow dispositive motions under Fed. R. Civ. P. 12 and 56, to permit civil discovery, and to allow appeals by third parties from denial of claims under Fed. R. Civ. P. 54(b)).

1 including March 30, 2007, for the United States to respond to the Petitions of Lantis Osemwengie
2 (Docket #167 in 2:05-cr-0100-RLH-LRL and Docket #267 in 2:06-cr-0002-RLH-GWF) and the
3 Petitions of Philomena Osemwengie (#168 in 2:05-cr-0100-RLH-LRL and #268 in
4 2:06-cr-0002-RLH-GWF) filed on February 9, 2007, in 2:06-cr-0002-RLH-GWF and on February 12,
5 2007, in 2:05-cr-0100-RLH-LRL. The United States's responses are currently due on March 12,
6 2007, respectively.

7 The reasons for the second requested extension are that the United States Secret Service
8 Special Agent has been unavailable the past few weeks to assist concerning the facts and circumstan-
9 es in this case, and counsel for the United States was (1) involved in several last-minute high profile
10 criminal matters from March 1, 2007, through March 7, 2007, (2) had a Ninth Circuit Mediation
11 hearing, and (3) two last minute civil cases that required and consumed much of the time intended for
12 the preparation of Responses to the Petitions.


13 On March 9, 2007, Mr. Ulrich W. Smith, counsel for Nelson and Lantis Osemwengie,
14 indicated that he has no opposition to the requested extension of time. This unopposed motion is not
15 submitted solely for the purpose of delay or for any other improper purpose.

16 DATED this 12th day of March, 2007.

17 STEVEN W. MYHRE
18 Acting United States Attorney

19 /s/ Daniel D. Hollingsworth
20 DANIEL D. HOLLINGSWORTH
21 Assistant United States Attorney

22 IT IS SO ORDERED.

23 
24 CHIEF UNITED STATES DISTRICT JUDGE

25 DATED: March 13, 2007

PROOF OF SERVICE

I, Daniel D. Hollingsworth, certify that the following individuals were served the **UNOPPOSED MOTION FOR EXTENSION OF TIME (Second Request)** on March 12, 2007 by the below-identified method of service:

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11 Petitioners Lantis and Philomena Osemwengie

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15 Attorney for Defendant Nelson Owemwengie

16 DATED this 12th day of March, 2007.

17 /s/ Daniel D. Hollingsworth
18 DANIEL D. HOLLINGSWORTH
19 Assistant United States Attorney
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